



Attorney 4002-006

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PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

JOHN BOTT et al.

Serial No. 09/762,163

Filed: March 9, 2001

Group Art Unit:

Examiner:

For: AUTOMATED IMMUNOASSAY APPARATUS WITH FLEXIBLE PICK-UP ARM

SECOND REQUEST FOR RECONSIDERATION

Honorable Commissioner of
Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

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TC 1700

Sir:

Attached hereto is a substitute Declaration executed by all 4 inventors. Also attached is a request for an extension of time extending the time a third month from September 6 to October 6, 2005. The fee for the third month extension is also attached.

It is submitted that the proper Declaration is now before the Examiner even though Applicant considered the initial filing to comply with the rules of practice and patent law. The only issue remaining is whether the filing has been done in timely fashion.

In dismissing the petition by the document dated March 4, 2005, the only issue raised was whether Applicant had paid the proper amount of money for the Petition to Revive. Applicant paid that money, and the decision on June 6, 2005 then raised for the first time the issue of whether the Declaration submitted was acceptable. In that document, Applicant was given 1 month to submit an appropriate Declaration. Applicant filed a request for reconsideration on August 12, 2005 and submitted a request for a 2 month extension of time extending the response date to September 6. This fee was accepted and therefore the extension was granted as the Request for Reconsideration was entered using the June 6, 2005 Office Action as a basis for the extension,

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not the March 4, 2005, date. Using the March date now is inconsistent with previous action and ignores raising the issue of the improper Declaration for the first time in the Office Action of June 6.

Accordingly, it is submitted that since the new issue of the proper Declaration was only raised for the first time in the Office Action of June 6, 2005, that is the appropriate date within which a response should be filed.

Applicant has therefore responded within the appropriate time to the Office Action which raised the issue of the Declaration for the first time. Applicant therefore considers this Petition in condition for approval, and a notice thereof is requested.

Respectfully submitted,

Donald C. Casey

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Date: September 29, 2005
Docket No.: 4002-006

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on Sept. 29, 2005
NWFWall